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Open-ended Working Group taking forward multilateral nuclear disarmament negotiations[1]

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Item 5 (a) of the agenda
Taking forward multilateral nuclear disarmament negotiations: (a) concrete effective legal measures, legal provisions and norms that will need to be concluded to attain and maintain a world without nuclear weapons

Model nuclear weapons convention

Submitted by Costa Rica and Malaysia

I. Background

1. A proposal on a model nuclear weapons convention was presented by Costa Rica and Malaysia as an official document of the Open-ended Working Group in 2013[2] and as an official document during the sixty-second session of the General Assembly of the United Nations[3]. The document sets forth legal, technical and political elements for the establishment and maintenance of a nuclear weapons-free world.

2. In introducing the model nuclear weapons convention, we would like to acknowledge the close partnership and collaboration between Costa Rica and Malaysia, as well as the work done by an international consortium of lawyers, scientists and disarmament experts in drafting this document.

II. Summary of the model nuclear weapons convention

3. The following are the main elements contained in the model nuclear weapons convention:

(a) General obligations

The model nuclear weapons convention prohibits development, testing, production, stockpiling, transfer, use and threat of use of nuclear weapons. States possessing nuclear

[1] Established pursuant to resolution 70/33 of the General Assembly of the United Nations.
[2] A/AC.281/WP.7.
[3] A/62/650.

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weapons will be required to destroy their arsenals according to a series of phases. The convention also prohibits the production of weapons usable fissile material and requires delivery vehicles to be destroyed or converted to make them non-nuclear capable.

(b) Declarations

States parties to the convention will be required to declare all nuclear weapons, nuclear material, nuclear facilities and nuclear weapons delivery vehicles they possess or control, and the locations of these.

(c) Phases for elimination

The convention outlines a series of five phases for the elimination of nuclear weapons beginning with taking nuclear weapons off alert, removing weapons from deployment, removing nuclear warheads from their delivery vehicles, disabling the warheads, removing and disfiguring the "pits" and placing the fissile material under international control. In the initial phases the United States of America and the Russian Federation are required to make the deepest cuts in their nuclear arsenals.

(d) Verification

Verification will include declarations and reports from States, routine inspections, challenge inspections, on-site sensors, satellite photography, radionuclide sampling and other remote sensors, information sharing with other organizations, and citizen reporting. Persons reporting suspected violations of the convention will be provided protection through the Convention including the right of asylum. An international monitoring system will be established under the convention to gather information, and will make most of this information available through a registry. Information which may jeopardize commercial secrets or national security will be kept confidential.

(e) National implementation measures

States parties are required to adopt necessary legislative measures to implement their obligations under the convention to provide for prosecution of persons committing crimes and protection for persons reporting violations of the convention. States are also required to establish a national authority to be responsible for national tasks in implementation.

(f) Rights and obligations of persons

The convention applies rights and obligations to individuals and legal entities as well as States. Individuals have an obligation to report violations of the convention and the right to protection if they do so. Procedures for the apprehension and fair trial of individuals accused of committing crimes under the treaty are provided.

(g) Agency

An agency would be established to implement the convention. It will be responsible for verification, ensuring compliance, and decision making, and will comprise a conference of States parties, an executive council and a technical secretariat.

(h) Nuclear material

The convention prohibits the production of any fissionable or fusionable material which can be used directly to make a nuclear weapon, including plutonium (other than that in spent fuel) and highly enriched uranium. Low enriched uranium would be permitted for nuclear energy purposes.

(i) Cooperation, compliance and dispute settlement

Provisions are included for consultation, cooperation and fact-finding to clarify and resolve questions of interpretation with respect to compliance and other matters. A legal dispute may be referred to the International Court of Justice by mutual consent of States parties. The agency may also recommend to the General Assembly of the United Nations to request an advisory opinion from the International Court of Justice on a legal dispute. The convention provides for a series of graduated responses for non-compliance beginning with consultation and clarification, negotiation, and, if required, sanctions or recourse to the General Assembly of the United Nations and the Security Council for action.

(j) Relation with other international agreements

The model nuclear weapons convention would build on existing nuclear non-proliferation and disarmament regimes and verification and compliance arrangements, including the Treaty on the Non-Proliferation of Nuclear Weapons, International Atomic Energy Agency Safeguards, Comprehensive Test-Ban Treaty Organization International Monitoring System and bilateral agreements between the Russian Federation and the United States of America. In some cases the model nuclear weapons convention may add to the functions and activities of such regimes and arrangements. In other cases, the model nuclear weapons convention would establish additional complementary arrangements.

(k) Financing

Nuclear weapon States are obliged to cover the costs of the elimination of their nuclear arsenals. However, an international fund will be established to assist States that may have financial difficulties in meeting their obligations.

(l) Optional Protocol Concerning Energy Assistance

The convention does not prohibit the use of nuclear energy for peaceful purposes. However, it includes an optional protocol which would establish a program of energy assistance for States parties choosing not to develop nuclear energy or to phase out existing nuclear energy programmes.

III. Concluding points

4. The existence of nuclear weapons and the possibility of a nuclear weapon detonation continue to pose a threat to humanity and all life on Earth. An adequate response to the humanitarian threat posed by nuclear weapons is through the adoption of legally binding, verifiable and enforceable instruments culminating in a comprehensive prohibition and destruction of all nuclear weapons under effective controls.

5. The submission of the model nuclear weapons convention does not indicate that an actual convention or package of agreements will exactly replicate this model. Rather, we view the model nuclear weapons convention as a useful tool in the exploration, development, negotiation and achievement of such an instrument or instruments.